

Advisory
Council On
Historic
Preservation

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PRESERVATION SERVICES

MAR 31 1993

Mr. Michael E. Moriarty
Acting Regional Director
Fish and Wildlife Service
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, Minnesota 55111-4056

INPA REVIEW *BL*
HVA _____
AC _____
AR *[Signature]* _____
File _____

RE: Wildlife Restoration Program and Sport Fish Restoration
Program in the State of Illinois

Dear Mr. Moriarty:

The enclosed Programmatic Agreement for the referenced programs has been executed by the Council. Council execution and your agency's implementation of the terms of the Agreement completes the requirements of Section 106 of the National Historic Preservation Act and the Council's regulations. A copy of the Agreement has also been sent to the Illinois State Historic Preservation Officer.

We appreciate your cooperation in reaching a satisfactory resolution of this matter.

Sincerely,

[Signature]
Don L. Klima
Director
Eastern Office of Review

Enclosure

PROGRAMMATIC AGREEMENT
AMONG THE UNITED STATES DEPARTMENT OF INTERIOR FISH AND WILDLIFE SERVICE,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND
THE ILLINOIS HISTORIC PRESERVATION AGENCY
FOR THE
WILDLIFE RESTORATION PROGRAM AND SPORT FISH RESTORATION PROGRAM

WHEREAS, the U.S. Department of Interior Fish and Wildlife Service (FWS) proposes to assist the Illinois Department of Conservation (IDOC) in the Wildlife Restoration Program (WRP) and Sport Fish Restoration Program (SFRP);

WHEREAS, the FWS has determined that these programs may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP) and has consulted with the Advisory Council on Historic Preservation (Council) and the Illinois State Historic Preservation Officer (ISHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f); and

WHEREAS, the IDOC has participated in the consultation and has assumed responsibility for implementing the terms below and been invited to concur in this agreement;

NOW, THEREFORE, the FWS, Council, and ISHPO agree that the program shall be implemented in accordance with the following stipulations to satisfy the FWS' Section 106 responsibilities for all individual aspects of these programs.

STIPULATIONS

The FWS will ensure that IDOC will implement the following measures:

I. EXEMPTIONS

A. The classes of exempt projects and activities listed below shall be considered to have no effect and shall not require ISHPO or Council review and comment to proceed except as noted in PART I (D) below or if known archaeological sites, or cemeteries are present within the project area.

1. Projects not involving standing structures when project area is 2.5 acres or less in size.
2. Vegetation clearing and burning of trees and shrubs less than six (6) inches in diameter in previously plowed fields.
3. Road widening equal to or less than one meter on either side of existing road bed.
4. Utility line construction or rehabilitation with width equal to or less than one meter.

5. Development of foot trails where disturbance is limited to surface vegetation only.
6. Project areas where previous cultural resource assessments have determined either no or nonsignificant resources are present and have been reviewed and approved by the ISHPO since 1985.
7. Projects upon landforms less than 50 years of age with no potential for buried archaeological resources.
8. Grounds maintenance including mowing, pruning, seeding and any other non-ground disturbing activities.
9. Modification/rehabilitation of structures less than 40 years old or structures previously determined not eligible for the National Register of Historic Places by the ISHPO since 1985.
10. Building maintenance of all structures including electrical work, heating and ventilation systems and plumbing on existing facilities; replacement of missing or damaged glass and caulking; and exterior and interior painting, or replacement in-kind of other materials.
11. Projects within areas of documented land disturbance such as areas of surface coal mining or previously used borrow pits; areas with minimal surface disturbance such as plowing, gravel roads, or foot paths or areas with standing structures are not included within this exempt class.

B. IDOC has and will continue to have personnel who meet, at a minimum, the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9) attached hereto and made a part of this agreement as Exhibit A who shall be responsible for reviewing the projects or activities permitted under this agreement to ensure that they fit within the classes of exempt projects or activities listed above, and implement all provisions of this agreement. Such personnel shall ensure a review system is in place so that no projects or activities exempted under this agreement shall damage, destroy or disturb historic properties on lands under IDOC control or management.

C. IDOC will keep a record of such review in which the IDOC personnel responsible for implementing this agreement has made a determination that the project or activity was an exempted class. This record shall be submitted to the FWS and the ISHPO on an annual basis. Such a record shall include project description and explanation of IDOC's determination that the project will have no effect. This explanation shall include sufficient project description to justify its inclusion within a class of exempt project or activity.

D. It is understood that the attached classes of exempt projects of activities shall not occur adjacent to or within previously known historic properties including historic districts, historic sites, and archaeological resources.

II. ARCHAEOLOGICAL SURVEY

A. The IDOC shall ensure that an archaeological inventory survey (Phase I) will be performed in all project areas not previously surveyed which do not fall within the exemptions. The Phase I survey shall be conducted in consultation with the ISHPO and a report of the survey shall be submitted to the ISHPO for review and approval. A report of the survey shall also be submitted to the FWS for review. An archaeological intensive survey (Phase II) will be performed at all archaeological sites affected by the project or activity which are potentially eligible for listing on the National Register of Historic Places to evaluate their eligibility. Phase II testing methodologies shall be formulated by the IDOC in consultation with the ISHPO. A copy of all Phase II methodologies shall be submitted to the FWS for review. A report of the Phase II findings shall be submitted to the ISHPO for review and approval and to the FWS for review.

B. The Phase I and Phase II archaeological investigations will be conducted in a manner consistent with the Secretary of the Interior's Standards and Guidelines for Identification (48 FR 44720-23), attached hereto and made a part of this agreement as Exhibit B, taking into account the National Park Service publication The Archaeological Survey: Methods and Uses (1978) attached hereto and made a part of this agreement as Exhibit C, and IHPA's Guidelines for Archaeological Reconnaissance Survey/Reports attached hereto and made a part of this agreement as Exhibit D, and in consultation with ISHPO. All Phase I and Phase II archaeological investigations will be carried out under the direct supervision of an archaeologist that meets, at a minimum, the Secretary of Interior's Professional Qualification Standards (48 FR 44738-9). The Phase I and Phase II investigations will be implemented by the IDOC, and reviewed by the ISHPO.

C. In consultation with the ISHPO, IDOC and FWS shall evaluate properties identified through the Phase II survey against the NRHP criteria (36 CFR Part 60.4)

1. For those properties which the FWS, IDOC, and the ISHPO agree are not eligible for inclusion in the NRHP, no further archaeological investigations will be required, and the proposed project may proceed in those areas.

2. If the survey results in the identification of properties that the FWS, IDOC, and the ISHPO agree are eligible for inclusion in the NRHP, such sites will be treated in accordance with Stipulation III below.

3. For those sites for which the FWS, IDOC, and the ISHPO are not in agreement concerning National Register eligibility, or if the Council or the Secretary so request, the FWS shall request a formal determination of eligibility from the Keeper of the National Register in accordance with the regulations outlined in 36 CFR Part 63. Such a decision shall be considered final by all parties.

D. The IDOC will ensure adequate site forms are produced for each new site identified and site update forms for each previously recorded site, and that these are sent to the ISHPO and the Illinois Archaeological Survey in a timely fashion.

III. ARCHAEOLOGICAL DATA RECOVERY (Phase III)

A. Those sites which the FWS, IDOC, and the ISHPO agree are eligible for inclusion in the NRHP will be treated in the following manner:

1. The IDOC shall ensure that a data recovery plan addressing substantive research questions is developed in consultation with the ISHPO for the recovery of relevant archaeological data. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation (48 FR 44734-37) attached hereto and made a part of this agreement as Exhibit E, and take into account the Council's publication, Treatment of Archaeological Properties attached hereto and made a part of this agreement as Exhibit F. It shall specify, at a minimum, the following:

- a. The property, properties, or portions of properties where data recovery is to be carried out;
- b. The research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
- c. The methods to be used, with an explanation of their relevance to the research questions; and
- d. A proposed schedule for the submission of progress reports to the ISHPO

2. The data recovery plan shall be submitted by the IDOC to the ISHPO for thirty (30) days review and approval. After approval, the IDOC shall then ensure that the data recovery plan is implemented. The ISHPO shall monitor this implementation. A copy of the data recovery plan shall also be submitted to the FWS for review.

B. The IDOC shall ensure that the data recovery plan is carried out by or under the direct supervision of an archaeologist(s) that meets, at a minimum, the Secretary of the Interior's Professional Qualification Standards (48 FR 44738-9).

C. The IDOC and the archaeological contractor will ensure that an adequate program for security of the cultural properties from vandalism during data recovery operations is developed and implemented.

D. The IDOC will ensure that adequate laboratory time, space, and funds are available for analysis of the osteological, cultural, and biological materials recovered.

E. A report of the Phase III data recovery shall be submitted to the ISHPO for review and approval. A copy of the report shall also be submitted to the FWS for review and confirmation of compliance with all provisions of Section 106.

IV. CURATION AND DISSEMINATION OF INFORMATION

A. In consultation with the ISHPO, the IDOC shall ensure that all materials and records resulting from the data recovery conducted for the WRP and SFRP programs are curated at the Illinois State Museum, pursuant to the Illinois Archaeological and Paleontological Resources Protection Act (IL. REV. STAT. 1989, ch. 127, par. 133c.01 et seq.) and in accordance with 36 CFR Part 79.. If human remains are recovered, the signatories to this Agreement shall consult further to determine the appropriate disposition of the remains.

B. The IDOC shall ensure that all final archaeological reports resulting from actions pursuant to this Agreement will be provided in a format acceptable to the ISHPO, and to the National Park Service for possible peer review and submission to the National Technical Information Service (NTIS). The IDOC shall ensure that all such reports are responsive to contemporary standards, and to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (42 FR 5377-79) attached hereto and made a part of this agreement as Exhibit G. Precise locational data may be provided only in a separate appendix if it appears that its release could jeopardize archaeological sites.

V. PROVISION FOR UNDETECTED ARCHAEOLOGICAL RESOURCES DISCOVERED DURING IMPLEMENTATION

In accordance with 36 CFR Section 800.11(a), if previously undetected archaeological resources are discovered during project activities, the IDOC will cease, or cause to stop, any activity having an effect on the resource and consult with the ISHPO to determine if additional investigation is required. If further archaeological investigations are required any data recovery will be performed in accordance with Stipulation III. ARCHAEOLOGICAL DATA RECOVERY (Phase III) and Stipulation IV. CURATION AND DISSEMINATION OF INFORMATION of this Agreement. If both the IDOC and ISHPO determine that further investigation is not necessary, activities may resume with no further action required. Any disagreement between IDOC and ISHPO concerning the need for further investigations will be handled pursuant to Stipulation VII. DISPUTE RESOLUTION of this Agreement.

VI. HISTORIC STRUCTURES, BUILDINGS, AND DISTRICTS

A. The IDOC shall ensure that a survey of all project areas not previously surveyed is undertaken to identify properties that might meet the criteria for listing in the National Register of Historic Places (36 CFR Section 600.4), and shall apply the criteria to each identified property in consultation with the ISHPO: The survey shall be conducted in consultation with the ISHPO and will take into account the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation FR 44720-26).

B. Until the survey is completed, properties that may be affected by the programs will be evaluated by the IDOC, in consultation with the ISHPO, against the National Register criteria, in accordance with 36 CFR Section 800.4(c).

C. The IDOC shall ensure that properties meeting the National Register criteria are maintained, or rehabilitated, in accordance with the recommended approaches in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior, National Park Service, 1983). The IDOC will keep a record of all such activities, with a description of the maintenance or rehabilitation. The documentation shall include a justification of how the undertaking met the Standards and Guidelines. This record shall be submitted to the FWS and the ISHPO on an annual basis.

D. If the recommended approaches in the Standards and Guidelines cannot be met, or if the ISHPO raises an objection to the plan, or if the project will result in demolition of, or other adverse effect to, a property that meets the National Register criteria, the IDOC and the FWS shall comply with 36 CFR Section 800.5(e).

VII. DISPUTE RESOLUTION

The FWS, IDOC and ISHPO shall together attempt to resolve any disagreement arising from implementation of this Agreement. If the FWS and IDOC determine that the disagreement cannot be resolved, the FWS shall request the further comments of the Council in accordance with 36 CFR Part 800.6(b). Any Council comment provided in response will be taken into account by the FWS in accordance with 36 CFR Part 800.6(c)(2), with reference only to the subject of the dispute. The FWS's responsibility to carry out all actions under this Agreement that are not the subjects of the dispute will remain unchanged.

VIII. AGREEMENT REVIEW

A. The FWS, the IDOC, the ISHPO, and the Council shall consult annually to review implementation of the terms of this agreement and determine whether revisions are needed. If revisions are needed, the FWS, the IDOC, the ISHPO, and the Council will consult in accordance with 36 CFR Part 800 to make such revisions.

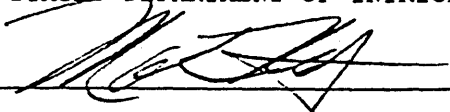
B. Each year the IDOC will notify the public of its current activities carried out pursuant to this agreement, and make available for public inspection documentation on the program. Should an objection to any such measure or its manner of implementation be raised by a member of the public, the IDOC shall notify the FWS. FWS and the IDOC shall take the objection into account and consult as needed with the objecting party, the ISHPO, or the Council to resolve the objection.

IX. TERMINATION OF THIS AGREEMENT

If one or more of the signatories to this agreement wish to withdraw from the terms of this agreement, they shall provide thirty (30) days notification to all other signatories. At the end of the thirty (30) days, all activities conducted shall be reviewed individually in accordance with 36 CFR Part 800.

Execution of this Programmatic Agreement by the FWS, the Council, and the ISHPO and the FWS carrying out of its terms evidences that the FWS has afforded the Council an opportunity to comment on the WRP and SFRP programs and its effect on historic properties and that the FWS has taken into account the effects of the project on historic properties.

UNITED STATES DEPARTMENT OF INTRIOR, FISH AND WILDLIFE SERVICE

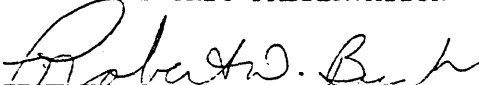
By:  Date: 3-16-93

Marvin E. Moriarty
Acting Regional Director

STATE HISTORIC PRESERVATION OFFICER

By:  Date: 2-5-93
William L. Wheeler, State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 3-30-93
Robert D. Bush, Executive Director

Concur:

ILLINOIS DEPARTMENT OF CONSERVATION

By:  Date: 19 Feb 93
Director



CLASSES OF EXEMPT UNDERTAKINGS

The following classes of undertakings are exempt from IHPA review except as noted:

1. Projects not involving structures when project area is 5 acres or less in size except:
 - a) if known archaeological sites or unregistered cemeteries are present within the project area.
2. Vegetation clearing and/or burning of trees and shrubs less than six (6) inches in diameter in previously plowed fields.
3. Road widening equal to or less than three (3) meters on either side of existing road bed except within areas designated as archaeologically sensitive as listed in Appendix A or within areas of high archaeological potential within other IDOC managed properties as listed in Appendix B.
4. Utility line construction or rehabilitation with width equal to or less than 3 meters except within areas designated as archaeologically sensitive as listed in Appendix A.
5. Development of foot trails where disturbance is limited to surface vegetation only and is not located in an archaeologically sensitive area as listed in Appendix A.
6. Project areas of less than 25 square meters in archaeologically sensitive areas as listed in Appendix A or within areas of high archaeological potential within other IDOC- managed properties as listed in Appendix B.
7. Project areas where previous cultural resource assessments have determined either no or nonsignificant resources are present and have been reviewed and approved by IHPA post 1985.
8. Projects upon landforms less than 50 years of age with no potential for buried archaeological resources.
9. Grounds maintenance including mowing, pruning, seeding and any other non-ground disturbing activities.
10. Modification/rehabilitation of structures less than 40 years old.
11. Building maintenance of all structures including electrical work, heating and ventilation systems and plumbing on existing facilities; replacement of missing or damaged glass and caulking; and exterior and interior painting, or replacement in-kind of other materials.
12. Projects within areas of documented land disturbance not involving structures, including but not limited to areas of surface coal mining.